

CONFORMED
COPY

BY:

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

11 FEB 28 PM 3:18

FILED

QUINN EMANUEL URQUHART & SULLIVAN LLP
Harold A. Barza (Bar No. 080888)
halbarza@quinnemanuel.com
Joseph M. Paunovich (Bar No. 228222)
joepaunovich@quinnemanuel.com
865 South Figueroa Street, 10th Floor
Los Angeles, California 90017-2543
Telephone: (213) 443-3000
Facsimile: (213) 443-3100

Attorneys for Plaintiff Moldex-Metric, Inc.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

MOLDEX-METRIC, INC., a California
corporation,

Plaintiff,

vs.

MCKEON PRODUCTS, INC., a
Michigan Corporation,

Defendant.

CASE NO. **GV11-01742** GHK (AGKx)

COMPLAINT FOR:

(1) FEDERAL TRADEMARK
INFRINGEMENT AND UNFAIR
COMPETITION

(2) COMMON LAW TRADEMARK
INFRINGEMENT AND UNFAIR
COMPETITION

(3) STATE UNFAIR COMPETITION

DEMAND FOR JURY TRIAL

1 Plaintiff Moldex-Metric, Inc. ("MOLDEX"), by and through its undersigned
2 attorneys, for its Complaint against Defendant McKeon Products, Inc.
3 ("MCKEON"), alleges as follows:

4 **I. THE PARTIES**

5 1. Plaintiff MOLDEX is a California corporation with a principal place of
6 business at 10111 West Jefferson Boulevard, Culver City, California 90232.

7 2. MOLDEX is informed and believes and thereon alleges that defendant
8 MCKEON is an Michigan corporation with a principal place of business at 25460
9 Guenther, Warren, MI 48091, and at all times relevant hereto was and is doing
10 business in the State of California sufficient to give rise to personal jurisdiction in
11 this forum.

12 **II. JURISDICTION AND VENUE**

13 3. This Court has subject matter jurisdiction over this action under 28
14 U.S.C. § 1331 (federal question jurisdiction); 28 U.S.C. § 1332 (diversity
15 jurisdiction); 28 U.S.C. § 1338(a) and (b) because this action arises under the
16 Lanham Act (15 U.S.C. §§ 1051 – 1127); and 28 U.S.C. § 1367 (supplemental
17 jurisdiction).

18 4. On information and belief, this Court has personal jurisdiction over
19 MCKEON because it conducts business within the State of California and has
20 committed the acts of trademark and trade dress infringement and federal and state
21 unfair competition that have given rise to this action in this district. MCKEON has
22 established minimum contacts with the forum such that the exercise of jurisdiction
23 over it would not offend traditional notions of fair play and substantial justice.

24 5. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)
25 because, on information and belief, MCKEON conducts business within this judicial
26 district and/or a substantial part of the events giving rise to the alleged claims in this
27 action occurred in this judicial district.
28

1 **III. FACTS COMMON TO ALL CLAIMS FOR RELIEF**

2 6. Since 1982, MOLDEX has been engaged in the business of
3 manufacturing and selling earplugs. Today, MOLDEX is one of the premier sellers
4 of foam earplug products throughout the world. The very first foam earplug
5 MOLDEX began selling in 1982 was bright green in color. For more than 28 years,
6 MOLDEX has continuously used a bright green color ("the Green Color Mark") to
7 identify its earplugs and to distinguish its earplug products from those made and
8 sold by others. Today, MOLDEX sells disposable earplugs bearing the Green Color
9 Mark under the name "Pura-Fit®."

10 7. MOLDEX's earplug products have a strong reputation in the industry
11 for being of extremely high quality.

12 8. To create further public awareness of MOLDEX's Green Color Mark,
13 MOLDEX has expended substantial time, effort and money advertising and
14 promoting the Green Color Mark in conjunction with its Pura-Fit® disposable
15 earplug and other earplug products which incorporate the Green Color Mark, both
16 throughout the United States and around the world.

17 9. As a result of MOLDEX's promotional and marketing efforts, the
18 Green Color Mark has become widely known and extremely valuable goodwill has
19 developed in it. By virtue of this promotion and marketing, and the substantial sales
20 of the Pura-Fit® earplug and other earplug products bearing the Green Color Mark,
21 the Green Color Mark has become distinctive of MOLDEX's ear plug products and
22 is identified with MOLDEX's goodwill and reputation.

23 10. MOLDEX is informed and believes and thereon alleges that MCKEON
24 has for many years been in the business of manufacturing and selling personal
25 hearing protection products.

26 11. MOLDEX is further informed and believes and thereon alleges that
27 within the past year MCKEON introduced and began selling bright green disposable
28 and reuseable earplugs under the name "Snore BLOCKERS Soft Foam Earplugs."

1 "HearPlugs Hi-Fidelity Earplugs," and "Shooters Coded Foam Earplugs" (the
2 "Accused Earplug Products") throughout the United States that are intended to
3 compete with MOLDEX's Pura-Fit® earplug and other earplug products bearing the
4 Green Color Mark.

5 12. MOLDEX is informed and believes and thereon alleges that MCKEON
6 targeted MOLDEX's disposable and reusable earplug product line because it knows
7 that MOLDEX's earplugs have a strong reputation in the industry for being of
8 extremely high quality and that MCKEON chose to use a mark and trade dress
9 confusingly similar to MOLDEX's earplugs with which they are now competing in
10 order to trade on MOLDEX's goodwill by confusing the marketplace into believing
11 that their hearing protection line is manufactured by, affiliated with or sponsored by
12 MOLDEX.

13 13. On information and belief, MCKEON promotes, markets and
14 distributes its hearing protection line, including the Accused Earplug Products, in
15 the same marketing channels as MOLDEX.

16 14. MCKEON's promotion, marketing and sale of its Accused Earplug
17 Products is causing and will continuing causing irreparable harm to MOLDEX's
18 reputation and goodwill and to the value of MOLDEX's Green Color Mark unless
19 MCKEON'S conduct is enjoined.

20 **FIRST CLAIM FOR RELIEF**

21 **(Federal Trademark Infringement and Unfair Competition)**

22 15. MOLDEX realleges and incorporates herein by reference paragraphs 1
23 through 14 of this Complaint.

24 16. MCKEON makes, imports, distributes, uses, offers to sell and/or sells
25 in the United States, including this district, bright green earplugs that directly
26 infringe Moldex's Green Color Mark in violation of § 43(a) of the Lanham Act, 15
27 U.S.C. § 1125(a) and Federal Unfair Competition laws.

1 17. Moldex has actively marketed, promoted, and continuously sold
2 earplugs with the Green Color Mark for more than 28 years such that it has become
3 distinctive of MOLDEX's goods. MCKEON has used Moldex's Green Color Mark
4 without its authorization and continues to trade off the goodwill and reputation
5 created and maintained by Moldex in the Green Color Mark.

6 18. The contemporaneous use by MCKEON of a bright green color mark
7 and trade dress for its earplugs will inevitably lead, if it has not already done so, to
8 confusion and mistake in the trade and deception of purchasers and to confusion as
9 to the origin, sponsorship or affiliation of MCKEON's goods. MOLDEX's
10 customers may erroneously conclude that MOLDEX sponsors or is responsible for
11 MCKEON's goods and those customers may have occasion to purchase MCKEON's
12 goods erroneously, believing that MOLDEX's standards of quality and service apply
13 to those goods, thereby doing great and irreparable harm to MOLDEX's reputation.

14 19. The acts of MCKEON set out above constitute a false designation of
15 origin, sponsorship and chain of distribution of such goods and a false or misleading
16 description or representation of those goods.

17 20. By reason of the acts alleged herein, MOLDEX has suffered and will
18 continue to suffer damage to their business, reputation and good will and monetary
19 damages in an amount not yet determined. MCKEON's actions have caused, and
20 unless MCKEON is enjoined by this Court, its actions will continue to cause
21 irreparable harm and injury to Moldex. Accordingly, Moldex lacks an adequate
22 remedy at law and it is entitled to injunctive relief pursuant to 15 U.S.C. § 1116.

23 21. MCKEON's conduct described herein is willful, wanton, malicious,
24 oppressive and in conscious disregard of MOLDEX's rights in its Green Color
25 Mark, and Moldex is entitled to damages pursuant to 15 U.S.C. § 1117, including
26 MCKEON's profits, Moldex's actual damages and the costs of this action, punitive
27 and exemplary damages and reasonable attorneys' fees.
28

SECOND CLAIM FOR RELIEF

(Common Law Trademark Infringement and Unfair Competition)

22. MOLDEX realleges and incorporates herein by reference paragraphs 1 through 21 of this Complaint.

23. MCKEON's acts alleged herein constitute unfair competition and infringement of MOLDEX's common law rights in its Green Color Mark.

24. MCKEON has caused, and is causing, monetary harm to Moldex. In addition, and independently, MCKEON has caused, and is causing, irreparable harm to Moldex, and unless permanently restrained by this Court, said irreparable injury will continue.

25. MCKEON's conduct described herein is willful, wanton, malicious, oppressive and in conscious disregard of MOLDEX's rights in its Green Color Mark, justifying the imposition of punitive and exemplary damages.

THIRD CLAIM FOR RELIEF

(State Unfair Competition)

26. MOLDEX realleges and incorporates herein by reference paragraphs 1 through 25 of this Complaint.

27. MOLDEX is the exclusive owner of the common law trademark rights in the Green Color Mark. No license or authorization has been granted to MCKEON to use the Green Color Mark or any variations thereon.

28. MOLDEX is informed and believes and thereon alleges that MCKEON, with full knowledge of the public awareness and value of MOLDEX's Green Color Mark, has traded on the goodwill associated with the mark and has misled and will continue to mislead the public into assuming a connection between MOLDEX and MCKEON's products by continuing to use MOLDEX's Green Color Mark for its products. This conduct has caused and will continue to cause irreparable damage to MOLDEX's goodwill and reputation and unjustly enrich MCKEON.

29. By falsely suggesting a connection with or sponsorship by MOLDEX, MCKEON's use of the Green Color Mark has caused and is likely to cause confusion or misunderstanding as to the source, sponsorship, or approval of MCKEON's goods by Moldex or as to MCKEON's affiliation, connection, or association with Moldex, and otherwise damage the public.

30. MCKEON's conduct constitutes unfair competition and deceptive acts or practices in the course of a business, trade, or commerce in violation of the laws of California, CAL. BUS. & PROF. CODE § 17200 *et seq.*; and Alabama, ALA. CODE §§ 8-10-1 *et seq.* (2002); Alaska, ALASKA STAT. 45.50.471 *et seq.*; Arizona, A.R.S. 44-1521 *et seq.*; Arkansas, A.C.A. § 4-75-201 *et seq.*; Colorado, COLO. REV. STAT §§ 66-2-101 *et seq.*; Connecticut, Connecticut Unfair Trade Practices Act ("CUTPA"), CONN. GEN. STAT., §§42-110a *et seq.*; Delaware, 6 DEL. C. §§ 251 1-27; Florida, FLA. STAT. §§501.201-213; Georgia, O.C.G.A. §§ 10-1-390 through 10-1-407; Hawaii, HRS § 480 *et seq.*; Idaho, I.C. §§ 48-601 *et seq.* (1979); Illinois, 815 ILL. COMP. STAT. ANN. 505/1 *et seq.*; Indiana, IND. CODE §§ 24-5-0.5-1 *et seq.*; Kansas, K.S.A. §§ 500-623 *et seq.*; Kentucky, K.R.S. ch. 365 *et seq.*; Louisiana, LA. REV. STAT. ANN. 51:1401-1419; Maine, 5 M.R.S.A. §§ 206-214; Maryland, MD. COM. LAW CODE ANN. §§ 13-301 *et seq.* (2005); Massachusetts, MASS. LAWS ANN. CH. 93A, §§1-11; Michigan, MICH. COMP. LAWS ANN. §§ 445.901 *et seq.*; Minnesota, MINN. STAT. ANN. §§ 325D.09 -325DD.16, 325F.68-325F.70; Nebraska, NEB. REV. STAT. §§ 59-1601 through 1623; Nevada, NEV. REV. STAT. §§ 598.0903 to 598.990, 598.A.010 to 280; New Hampshire, N.H. REV. STAT. ANN. § 358-A; New Jersey, N.J. STAT. ANN. §§ 56:4-1 to -2, 56:8-1 to -166; New Mexico, N.M. STAT. ANN. § 57-12-2; New York, N.Y. GEN. BUS. L. § 349; North Carolina, N.C. GEN. STAT. §75-1.1; North Dakota, N.D. CENT. CODE § 51-10; South Carolina, S.C. CODE ANN. §§ 39-5-10 through 39-5-560; South Dakota, S.D. CODIFIED LAWS § 37-24-6; Tennessee, TENN. CODE ANN. §§ 47-18-101, *et seq.*; Utah, UTAH CODE ANN. § 13-5—1, *et seq.*; Vermont, VT. STAT. ANN. TIT. 9, §§

1 2451-2480n; Washington, WASH. REV. CODE § 19.86.010; Wisconsin, WIS.
 2 STAT. § 100.20; the Colorado Consumer Protection Act, COLO. REV. STAT. § 6-1-
 3 105, *et seq.*, and the unfair and deceptive trade practices statutes of other states,
 4 including Delaware, DEL. CODE ANN. TIT. 6, §§ 2531-36; Georgia, GA. CODE
 5 ANN. §§ 10-1-370 to 10-1-375; Hawaii, HAW. REV. STAT. § 481-A; Illinois, 815
 6 ILL. COMP. ANN. 510/1 TO 510/7; Kentucky, KY. REV. STAT. ANN. §§ 367.10,
 7 367.175; Maine, ME. REV. STAT. TIT. 10, §§ 1211-1216; Minnesota, MINN. STAT.
 8 ANN. §§ 325D.43-325D.48; Nebraska, NEB. REV. STAT. §§ 87-301 – 87-306; Ohio,
 9 OHIO REV. CODE ANN. §§ 4165.01 to 4165.04; Oklahoma, OKLA. STAT. TIT. 78,
 10 § 75-1-1; and Rhode Island, R.I. GEN. LAWS §§ 6-13.1-1 through 6-13.1-19.

11 31. MCKEON has caused, and is causing, monetary harm to Moldex. In
 12 addition, and independently, MCKEON has caused, and is causing, irreparable harm
 13 to Moldex, and unless permanently restrained by this Court, said irreparable injury
 14 will continue.

15 32. MCKEON's conduct described herein is willful, wanton, malicious,
 16 oppressive and in conscious disregard of MOLDEX's rights in its Green Color
 17 Mark, justifying the imposition of punitive and exemplary damages.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, MOLDEX prays as follows:

20 33. For injunctive relief, as provided for in 15 U.S.C. §1116, namely for
 21 temporary, preliminary and permanent injunctive relief preventing MCKEON and
 22 its officers, agents, affiliates, servants, employees, and attorneys, and all those
 23 persons acting or attempting to act in concert or participation with them, from
 24 directly or indirectly:

25 a) manufacturing, advertising, promoting, marketing, or selling its
 26 Accused Earplug Products or any other product bearing a trademark or trade dress
 27 confusingly similar to MOLDEX's Green Color Mark.
 28

1 b) using any false designation of origin or false description,
2 including the appearance of its Accused Earplug Products, that can, or is likely to,
3 lead the consuming public, or individual members thereof, to believe that any goods
4 produced, advertised, promoted, marketed, provided, or sold by MCKEON are in
5 any manner associated or connected with MOLDEX, or are advertised, promoted,
6 marketed, sold, licensed, sponsored, approved or authorized by MOLDEX; and

7 c) unfairly competing with MOLDEX in any manner whatsoever.

8 34. For an order, as provided for in 15 U.S.C. §1118, requiring that all
9 materials bearing and used to produce the infringing mark and trade dress be
10 delivered up and destroyed, and requiring MCKEON to withdraw from the market
11 all infringing products and advertising and promotional material displaying the
12 infringing products.

13 35. For an order directing defendant to file with the Court and serve upon
14 plaintiff's counsel within thirty (30) days after entry of the order of injunction, a
15 report setting forth the manner and form in which MCKEON has complied with the
16 injunction, including the provision relating to destruction and recall of infringing
17 products and materials.

18 36. For an order requiring defendant to account to plaintiff for any and all
19 profits derived by MCKEON from the marketing and sale of products bearing
20 MOLDEX's Green Color Mark.

21 37. For judgment for actual compensatory damages to be proven at the time
22 of trial as provided for in 15 U.S.C. §1117 and applicable state law, including
23 MCKEON's profits or gains of any kind resulting from its acts of infringement and
24 unfair competition.

25 38. For judgment for enhanced damages for MCKEON's willful
26 infringement, as provided for in 15 U.S.C. §1117, including an award of treble
27 damages, and for punitive and exemplary damages as appropriate.
28

1 39. For plaintiff's attorneys' fees and costs of this action as provided for in
2 15 U.S.C. §1117.

3 40. For such further and additional relief as the Court may deem just and
4 proper, including pre and post judgment interest.

5
6 DATED: February 28, 2011

QUINN EMANUEL URQUHART &
SULLIVAN LLP

7
8
9 By 

10 Harold A. Barza

11 Joseph M. Paunovich

12 Attorneys for Plaintiff

13 MOLDEX-METRIC, INC.
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEMAND FOR JURY TRIAL

Plaintiff MOLDEX hereby demands a trial by jury of all issues triable by jury.

DATED: February 28, 2011

QUINN EMANUEL URQUHART &
SULLIVAN LLP

By



Harold A. Barza
Joseph M. Paunovich
Attorneys for Plaintiff
MOLDEX-METRIC, INC.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge George King and the assigned discovery Magistrate Judge is Alicia G. Rosenberg.

The case number on all documents filed with the Court should read as follows:

CV11- 1742 GHK (AGR~~x~~)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MOLDEX-METRIC, INC., a California
corporation,

PLAINTIFF(S)

v.

MCKEON PRODUCTS, INC., a Michigan
corporation,

DEFENDANT(S).

CASE NUMBER

CV11-01742 GHK (AGRx)

SUMMONS

TO: DEFENDANT(S): MCKEON PRODUCTS, INC.

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Harold Barza, Joe Paunovich, whose address is 865 South Figueroa Street, 10th Floor, Los Angeles, California 90017. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

FEB 28 2011

Dated: _____

By: _____

Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

UNCONFIRMED COPY

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) Moldex-Metric, Inc., a California Corporation	DEFENDANTS McKeon Products, Inc., a Michigan Corporation
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Quinn Emanuel Urquhart & Sullivan, LLP Harold A. Barza, SBN 80888 Joseph M. Paunovich, SBN 228222 865 South Figueroa Street, 10th Floor Los Angeles, CA 90017 (213) 443-3000; F (213) 443-3100	Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:10%;">PTF <input type="checkbox"/> 1</td> <td style="width:10%;">DEF <input type="checkbox"/> 1</td> <td style="width:33%;">Incorporated or Principal Place of Business in this State</td> <td style="width:10%;">PTF <input type="checkbox"/> 4</td> <td style="width:10%;">DEF <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td>PTF <input type="checkbox"/> 2</td> <td>DEF <input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td>PTF <input type="checkbox"/> 5</td> <td>DEF <input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td>PTF <input type="checkbox"/> 3</td> <td>DEF <input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td>PTF <input type="checkbox"/> 6</td> <td>DEF <input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF <input type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4	Citizen of Another State	PTF <input type="checkbox"/> 2	DEF <input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	PTF <input type="checkbox"/> 5	DEF <input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	PTF <input type="checkbox"/> 3	DEF <input type="checkbox"/> 3	Foreign Nation	PTF <input type="checkbox"/> 6	DEF <input type="checkbox"/> 6
Citizen of This State	PTF <input type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4														
Citizen of Another State	PTF <input type="checkbox"/> 2	DEF <input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	PTF <input type="checkbox"/> 5	DEF <input type="checkbox"/> 5														
Citizen or Subject of a Foreign Country	PTF <input type="checkbox"/> 3	DEF <input type="checkbox"/> 3	Foreign Nation	PTF <input type="checkbox"/> 6	DEF <input type="checkbox"/> 6														

IV. ORIGIN (Place an X in one box only.)

☒ 1 Original Proceeding
 ☐ 2 Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from another district (specify): _____
 ☐ 6 Multi-District Litigation
 ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No **MONEY DEMANDED IN COMPLAINT: \$** _____

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Federal Trademark Infringement under Section 43 of the Lanham Act, 15 USC Section 1125(a); Federal and State Unfair Competition; Common Law Trademark Infringement

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) (405(g)) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

CV11-01742

FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

(Check all boxes that apply)

- ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Plaintiff Moldex-Metric, Inc. - Los Angeles County	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Defendant McKeon Products, Inc. - Michigan

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.

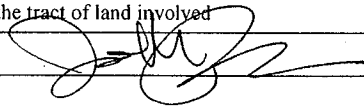
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
All claims arose in Los Angeles County	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):



Date February 28, 2011

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))